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## ***Trademark Basics: An introduction for Patent Professionals***

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November 2010



# Agenda

- What is a Trademark
  - Compared to Patents/Copyrights
  - What Can Be Registered
  - Overview of Registration and Prosecution
  - What to do if Rejected
  - Maintaining Registration
  - How to Register
- 

# What is Trademark?

- Trademark → “Brand” → Source Identifier
  - A trademark is a **mark** that identifies and distinguishes a specific product from others in the marketplace (i.e. **trade**)
- Form of Intellectual Property Protection
  - Commerce Clause
    - Article 1, Section 8, Clause 3: “To regulate Commerce ...”
  - Lanham Act
    - Title 15, Chapter 22 of the United States Code

# What Can Be Registered

- 15 U.S.C. 1127: “...word, name, symbol, or device, or any combination thereof...”
- Name
- Word
- Phrase
- Symbol
- Logo
- Design
- Image
- Smell
- Sound
- Any Combination

# Trademark vs. Patent or Copyright

- Patent
  - Protects: Inventions/Discoveries
  - Patentable Subject Matter, New, Useful, and Non-Obvious
- Trademark
  - Protects: Brand/Reputation
  - Identify source of goods/services
  - Distinguish goods/services from others
  - Not Function
- Copyright
  - Protects: Original Works of Authorship
  - Not Inventions/Discoveries

- Must be Source Identifier
- Must Not be Functional
  - Functional matter cannot be protected as a trademark
  - A feature is functional as a matter of law if it is essential to the use or purpose of the product or if it affects the cost or quality of the device

# Functionality (Statutes)

- Prohibited on both Principal and Supplemental Register
- No registration even upon acquired distinctiveness
- Functionality can be raised in a cancellation proceeding
- Functionality is a statutory defense to infringement

# Supreme Court (Qualitex, 1995): Functionality

- Trademarks promote competition by protecting reputation
- Patents encourage invention by granting a limited monopoly
- If functional features could be used as trademarks, the monopoly could be extended forever
- No functional trademarks even if they become distinctive



# Choosing a Trademark (Distinctiveness)

← Less Distinctive

More Distinctive →

Generic

Descriptive

Suggestive

Arbitrary

Fanciful

Carpet  
Cleaning  
Company



- Generic: Common name
- Descriptive: Describe product, characteristic, or quality
- Suggestive: Suggest rather than describe. Require imagination/hindsight
- Arbitrary: Existing words unrelated to product
- Fanciful: Coined words with no relation to product

# Descriptive vs. Suggestive

- Suggestive
  - Can be registered and protected
- Descriptive
  - No registration without “secondary meaning”
- What is Secondary Meaning?
  - Consumers begin to associate mark with goods/services
  - Requires repetitive and continuous use
  - Protection narrower than suggestive, arbitrary, or fanciful mark

# When Can You (not) Register

You can not register a mark if:

- Someone else already registered it
  - Mark (or confusingly similar) is already registered or pending
- Someone else is already using it
  - Same market for similar goods/services
- Can not:
  - Be immoral, scandalous, or disparaging
  - Falsely suggest connection to persons, institutions, beliefs, or national symbols

# How Can You Get a Trademark?

- Use the Mark (in commerce)
  - First to use acquires immediate and automatic common law rights
- Register the Mark
  - Federal
  - State (similar to Common Law rights)

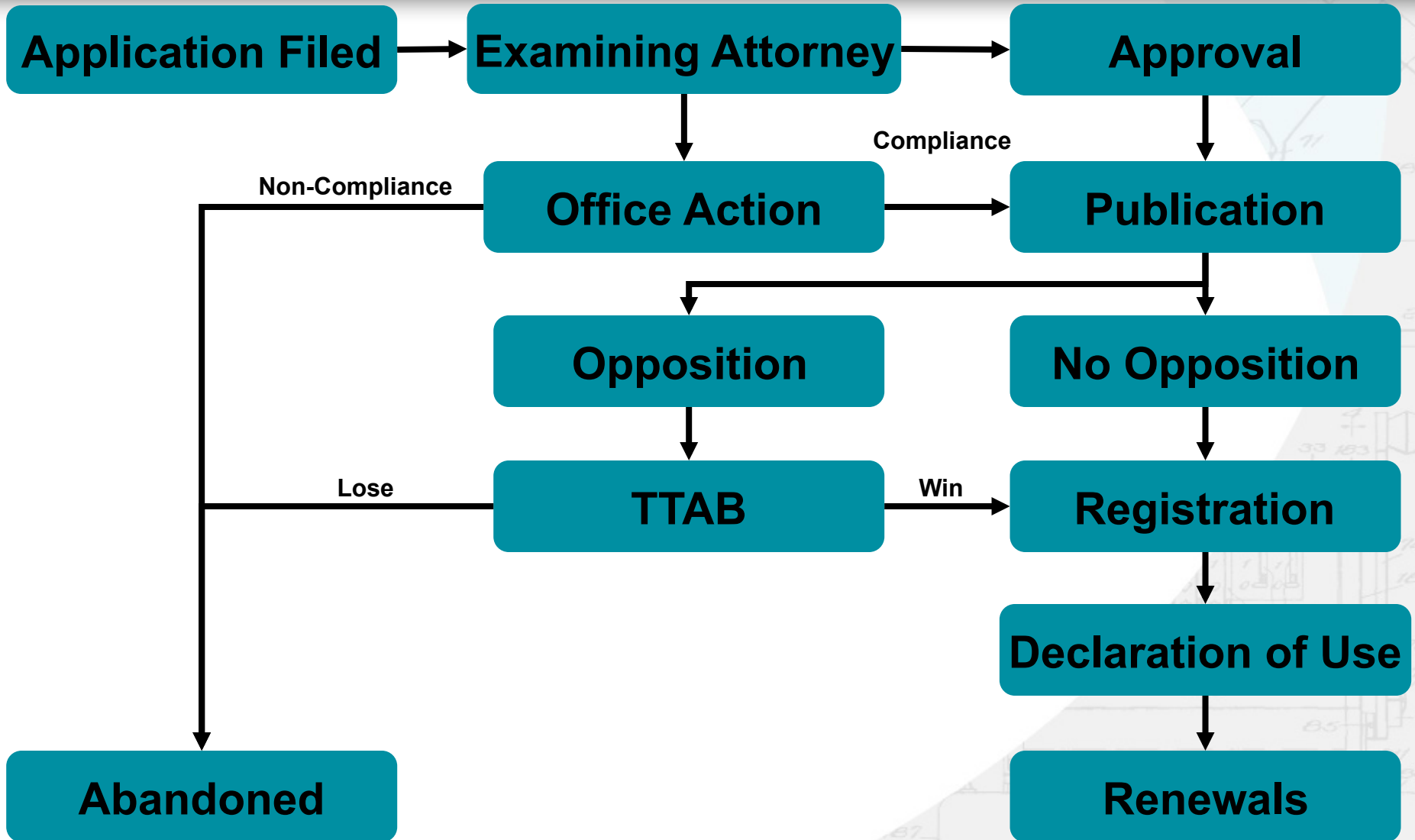
# Common Law Rights vs. Registration

- **Common Law**
  - Bound by geographic area where product/service is marketed
  - Protection begins after actual availability for sale
  - Rights can be lost to someone else who sells first (senior user)
  
- **Federal Registration**
  - Valid in entire country
  - Priority based on application date
  - “Intent to Use” allows application before actual use
    - Allows time to develop product/service

# Overview of Registration

- Search
  - Trademark Electronic Search System (TESS)
- Check Status of Potentially Conflicting Marks
  - Trademark Application & Registration Retrieval System (TARR)
- Apply
  - Trademark Electronic Application System (TEAS)

# Overview of (Use Based) Prosecution



# Principal vs. Supplemental Registration

## Two Sections of Federal Trademark Register

- Principal: Most marks
- Supplemental: Non-distinctive marks capable of acquiring distinctiveness (i.e. “secondary meaning”)



- Marks registrable:
  - Marks capable of acquiring distinctiveness
  - Surnames, geographic terms, non-distinctive
- Rights
  - Right to use ®
  - Block others from filing for same/confusingly similar mark
  - No presumption of validity, ownership, or exclusivity
  - Can not be used to stop importation of counterfeit products
  - Can not become incontestable

# Why Bother with Supplemental Registration

- If certain that PTO will consider mark descriptive
- If PTO rejects application for Principal Register
- Try again after 5 years
  - Can not be converted to Principal Registration
  - If mark acquires distinctiveness, file new application to Principal Register
- Other Considerations
  - Not published for opposition
  - If third party objects, may attempt to cancel after issued

# Maintaining Trademark Registration

- Continued Use
  - Actual Use
  - Affidavit of Continued Use (5<sup>th</sup>-6<sup>th</sup>, 9<sup>th</sup>-10<sup>th</sup>, Every 10 Years)
  - Affidavit of Incontestable Rights (5 Consecutive Years)
- Renewals
  - 10 Years
- Monitoring
  - Unauthorized Use
  - Improper Use

# Proper Use & Genericide

- **Genericide: Treating mark as product name**
  - Kleenex, Xerox, Escalator, Trampoline, Raisin Bran, Dry Ice, Yo-Yo, High Octane, etc.



**If a trademark is misused it could come undone.**

If you didn't know zipper was a trademark, don't worry, it's not. But it used to be. It was lost because people misused the name. And the same could happen to ours, Xerox. Please help us ensure it doesn't. Use Xerox only as an adjective to identify our products and services, such as Xerox copiers, not a verb, "to Xerox" or a noun, "Xeroxes." Something to keep in mind that will help us keep it together.

xerox.com      Ready For Real Business. **xerox** 

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# Avoiding Genericide

- Use TM and ® where appropriate
- Distinguish from surrounding text
  - Quote Marks, Larger font, All Capitals, Distinctive Font, Color
- Use Mark followed by Noun
  - Kleenex tissue, Q-Tip cotton swabs
- Never Plural
  - Two Apples (wrong) vs. Two Apple computers (correct)
- Never Possessive
  - Apple's quality (wrong) vs. Apple computer's quality (correct)
- Never Verb
  - Google it (wrong) vs. Search Google (correct)
- Watch Spelling
  - Cocacola (wrong) vs. Coca-Cola (correct)

# Filing An Application

- Intent to Use Application
- Principal Register
- TEAS form

# Initial Application Form



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"Click" on the form category below to access a page for selection of a specific online form. To view an initial listing of all form titles within a specific category, simply "scroll over" the category heading.

## ■ [INITIAL APPLICATION FORM](#)

To apply to register a trademark/servicemark, Principal Register, or other type of mark

## ■ [RESPONSE FORMS](#)

To respond to: a Law Office examining attorney letter (an "Office action") (a non-final or final action, including a suspension inquiry/letter of suspension or a request to submit a "substitute form" where the wrong form type was initially filed); an Intent-to-Use Unit Office action; a Post-Registration Division Office action; a Petitions Office letter

## ■ [INTENT-TO-USE \(ITU\) FORMS \("File a PRE-registration form"\)](#)

To file a Statement of Use (SOU) and convert an ITU application to actual use after a notice of allowance (NOA) issues; or to file an extension request after a NOA issues; or to file an Amendment to Allege Use (AAU) and convert an ITU application to actual use before a NOA issues; or to respond to an Intent-to-Use Unit Office action

## ■ [POST-PUBLICATION/POST NOTICE OF ALLOWANCE \(NOA\) FORMS](#)

To request amendment soon after an application has published or a notice of allowance (NOA) has issued; or to delete a Section 1(b) basis after a NOA issues

## ■ [CORRESPONDENCE AND ATTORNEY/DOMESTIC REPRESENTATIVE FORMS](#)

To file: a change of correspondence address, a change of owner's address, or a change of domestic representative's address; a withdrawal of attorney or domestic representative; a revocation/appointment of attorney/domestic representative; a request to replace attorney of record with another already-appointed attorney

## ■ [PETITION FORMS](#)

To file: a petition to revive an abandoned application; a petition to amend the basis of an application after publication; a petition to the Director under Trademark Rules 2.146 and 2.148; a letter of protest and similar matters; a response to a Petitions Office letter

## ■ [MISCELLANEOUS FORMS](#)

To file: a voluntary amendment not in response to USPTO Office action/Letter; a request that the application examination process be terminated (an "express abandonment"); a request to divide an application *NOT* filed with an allegation of use (to file *WITH* an allegation of use, see the overall category "Intent-to-Use (ITU) Forms," above)

## ■ [REGISTRATION MAINTENANCE/RENEWAL FORMS](#)

To make required maintenance filings between the 5th and 6th year after the registration date (Section 8) and between the 9th and 10th year after the registration date (Section 8 & 9); to claim that a mark is now incontestable (Section 15); to request amendment or correction of a registration certificate (Section 7); to surrender a registration; to request to divide a registration; to file a Section 12(c) affidavit; to submit the required maintenance filings under Section 71 for a registered extension of protection (Madrid Protocol); to respond to a Post-Registration Division Office action

## ■ [ASSIGNMENT FORMS](#)

To file: assignments; change of name; other conveyances of title

## ■ [TRADEMARK TRIAL AND APPEAL BOARD FORMS](#)

To file all submissions to the Trademark Trial and Appeal Board; e.g., oppositions, cancellations, notices of appeal after final actions

## ■ [MADRID PROTOCOL FORMS](#)

To file: an application for International Registration; a subsequent designation ; a response to notice of irregularity; a request for replacement or transformation



# Principal Register

## ■ [1. Trademark/Service mark Application, Principal Register](#)

Use this form to file an initial application to register a TRADEMARK for "goods" and/or a SERVICEMARK for "providing services" (note that this form is appropriate for either, and that you will not actually specify the "type" of mark when filing). Only **one mark** is permissible per application, although a mark may consist of several elements that are joined to form a composite whole (e.g., words plus a design).

**NOTE:** If you file this application based only on an intent to use the mark in commerce *in the future*, rather than actual use in commerce now, you must later file another form (and additional fee) to establish use before we can register the mark, even if the mark has otherwise been approved based on the information in the original Trademark/Service mark application. See listings under the overall category "INTENT-TO-USE (ITU) FORMS" on the TEAS front page.

**FEES:** The filing fee for the application is based on the following:

1. Number of classes of goods and/or services in the application. *I.e.*, if an application is for one mark, but the mark is used on goods and/or services in two different classes, e.g., computer software in Class 9 and t-shirts in Class 25, then payment for two classes is required before the application could be approved.
2. Version of the form being used, *i.e.*, either the "TEAS Plus" form or the "regular TEAS" form" The application filing fee for the TEAS form is \$325 per class of goods and/or services, while the TEAS Plus is \$275 per class, but has **stricter** filing requirements, than the regular TEAS form. Clicking on the "Trademark/Service mark Application, Principal Register" link above will take you to the page offering the two form versions, with more detailed instructions as to which version of the form may be most appropriate for your specific filing.

**WARNING:** The filing fee is a processing fee that the USPTO will **NOT** refund, even if the USPTO does not ultimately issue you a registration for your mark. Because approval is based on a legal determination by an examining attorney and is **NOT** automatic, please take all necessary steps to ensure your mark is registrable before filing an application.

**NOTE:** If you wish to apply for another type of mark (Certification mark [Class A and/or Class B], Collective Membership mark [Class 200], collective trademark/service mark), or on a different register (Supplemental), click [here](#).



# TEAS or TEAS Plus

## [TEAS Plus Form](#)

This form has a lower filing fee of \$275 per class of goods and/or services, but has **stricter** requirements, than the TEAS form, below. Select this option **ONLY** if you agree to:

- file a "complete" application that satisfies all requirements set forth in [Rule 2.22\(a\)](#), not only the regular "[minimum requirements](#)" for obtaining a filing date. Almost all fields in this form are mandatory;
- select the listing of goods and/or services for this application directly from the USPTO's [Acceptable Identification of Goods and Services Manual](#). While certain listings will allow for "[customization](#)," total "free-text" entries for identifications CANNOT be made;  
**NOTE:** We strongly recommend that you confirm that your identifications appear in the Manual (using the provided link, above,) BEFORE even entering the TEAS Plus form; otherwise, you may spend time completing some of the application, only to discover you were not eligible for a TEAS Plus filing once you reach the Goods/Services section of the form. If the term(s) does not appear, you can request that an identification be added, by e-mailing [TMIDSUGGEST@uspto.gov](mailto:TMIDSUGGEST@uspto.gov); however, this would not enable you to file immediately. For more information on this process, click [here](#). The TEAS Plus version of the IDManual intentionally does not include items classified in Classes A, B, or 200, because those marks are not eligible for filing under TEAS Plus. Also missing are any listings that appear in the "regular" manual under "000," because correct classification is required under TEAS Plus, and classification for these listings varies according to the additional information provided within the listing.
- attach all required image files, where applicable, in the .jpg format (for specimens, foreign registration certificates, consents, evidence) (except for sounds marks, for which a .wav or MP3 file can be submitted separately);
- pay the fees for ALL classes at the time of filing;
- file certain later communications regarding the application, such as a response to an Office action, through TEAS. See [Rule 2.23\(a\)\(1\)](#) for the listing of forms that must be filed through TEAS; and
- receive communications concerning the application by electronic mail (e-mail) during the pendency of the application.

**NOTE:** If you use the TEAS Plus version of the form, you must pay an additional fee of \$50 per class if, at any time during the examination of the application, the Office determines that (1) the application did not meet the filing requirements for a TEAS Plus application as of the filing date, as set forth in Rule 2.22(a); (2) the applicant files a paper form after the initial application, but a TEAS form existed for that purpose, e.g., a response to an Office action; and/or (3) the applicant refuses to receive correspondence from the Office by [electronic mail \(e-mail\)](#) during the pendency of the application.

## [TEAS Form](#)

You must select this option, having a filing fee of \$325 per class of goods and/or services, if you:

- cannot file a "complete" application at this time, satisfying all requirements as set forth in [Rule 2.22\(a\)](#), but instead can meet only the "[minimum requirements](#)" for obtaining a filing date. Only certain fields on this version of the form are mandatory;
- wish to make a "free-text" entry for the listing of goods and/or services for this application, rather than selecting the listing directly from the USPTO's [Acceptable Identification of Goods and Services Manual](#) (apart from any permissible "customization" within certain listings);
- are unable either to create or successfully attach in the designated portion(s) of the form a proper .jpg image file, if applicable for the application (for specimens, foreign registration certificates, consents, evidence);
- wish to pay for only one class at the time of filing, although the application as filed will consist of multiple classes;
- plan later to file certain communications regarding the application, such as a response to an Office action, in paper rather than through TEAS. See [Rule 2.23\(a\)\(1\)](#); and
- do not agree to receive communications concerning the application by electronic mail (e-mail) during the pendency of the application.

# Can Use Previously Saved Application

**To file the application electronically, please complete the following steps:**

1. Answer the first question below to create an application form showing only sections relevant to your specific filing.
2. For help at any point, click on any underlined word on any page.
3. After answering the first wizard question, click on the CONTINUE button at bottom of the page.
4. Once in the actual form, complete all fields with a \* symbol, since they are mandatory fields for TEAS filing purposes.
5. Validate the form, using the "Validate" button at the end of the form. If there are errors, return to the form to make the correction. A "Warning" may be corrected or by-passed.
6. Double-check all entries through the links displayed on the Validation page.
7. You may save your work for submission at a later time by clicking on the Download Portable Data button at the bottom of the Validation page.
8. When ready to file, use the Pay/Submit button at the bottom of the Validation page. This will allow you to choose from three (3) different payment methods: credit card, automated deposit account, or electronic funds transfer.
9. After accessing the proper screen for payment, and making the appropriate entries, you will receive a confirmation screen if your transmission is successful. This screen will say SUCCESS! and will provide your assigned serial number.
10. You will receive an e-mail acknowledgement of your submission, which will repeat the assigned serial number and provide a summary of your submission.

**Once you submit this application, we will not cancel the filing or refund your fee. The fee is a processing fee, which we do not refund even if we cannot issue a registration after our substantive review.**

**Important:** ONCE YOU SUBMIT AN APPLICATION ELECTRONICALLY, THE USPTO WILL IMMEDIATELY ISSUE AN ELECTRONIC ACKNOWLEDGMENT OF RECEIPT. Please contact [TEAS@uspto.gov](mailto:TEAS@uspto.gov) if you do not receive this acknowledgment within 24 hours of transmission.

**Contact Points:**

- **General trademark information:** Please review the information posted at [Where Do I Start](#). If you have remaining questions, e-mail [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov), or telephone 1-800-786-9199.
- **Help:** For instructions on how to *use* the electronic forms, or help in resolving *technical* glitches, please e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). Please include your telephone number in your e-mail, so we can talk to you directly, if necessary. Also, include the relevant serial number or registration number, if existing.  
NOTE: The TEAS Support Team focuses on problems related to the process of completing the electronic forms, not on what information would be correct for entry within a form, or other broader trademark issues. Please route those types of inquiries to the Trademark Assistance Center. However, please be aware that neither group can provide any sort of information in the nature of "legal advice." For legal advice, please consider contacting an attorney who specializes in intellectual property.
- **Bug Report:** If you think there is a "bug" within one of the electronic forms, please click [Bug Report](#).
- **Status Information:** For an application with an assigned serial number, check [Trademark Applications and Registrations Retrieval](#) to view current status information, as well as the complete prosecution history. Do not attempt to check status until at least 7-10 days after submission of a filing, to allow sufficient time for all USPTO databases to be updated. You can view all items listed in the prosecution history section online at [Trademark Document Retrieval](#), including all office actions sent by the USPTO.

**WARNING:** This form has a session time limit of 60 minutes. Your "session" began as soon as you accessed this initial Form Wizard page. If you exceed the 60-minute time limit, the form will not validate and you must begin the entire process again; you can, however, [extend the time limit](#). You should always try to have all information required to complete the form prior to starting any session.

**1. Is an [attorney](#) filing this application?**

Yes  No


**2. [OPTIONAL]** To access **previously-saved data**, use the "Browse/Choose File" button below to access the file from your local drive. **NOTE:** For specific instructions, please click [here](#). **FAILURE TO FOLLOW THESE NEW INSTRUCTIONS WILL RESULT IN THE DISPLAY OF YOUR DATA IN AN XML FORMAT THAT CANNOT BE EDITED.**  
**NOTE:** Do NOT attempt to use the button below to upload an image file (for example, a specimen). You must use the button that will be presented for that purpose *within the proper section of the actual form*.

# Enter Application Information

## Applicant Information

**Note:** This identifies who owns the mark, **not** necessarily who is filing the application.

**Note:** If there is more than one owner of the mark, complete the information for the first owner, and then click on the "Add Owner" button at the bottom of this page. Repeat, as necessary, for the appropriate listing of all owners. **Warning:** It is important to determine whether, in fact, the applicants are [joint applicants](#), or some other entity type listed below.

<b>* Owner of Mark</b>	SUPLES LTD., INC. <small>[If an individual, use the following format: Last Name, First Name Middle Initial or Name, if applicable]</small>			
<input type="checkbox"/> DBA (doing business as) <input type="checkbox"/> AKA (also known as) <input type="checkbox"/> TA (trading as) <input type="checkbox"/> Formerly				
<b>Entity Type</b> <input type="radio"/> Individual <input checked="" type="radio"/> Corporation <input type="radio"/> Limited Liability Company <input type="radio"/> Partnership <input type="radio"/> Limited Partnership <input type="radio"/> Joint Venture <input type="radio"/> Sole Proprietorship <input type="radio"/> Trust <input type="radio"/> Estate <input type="radio"/> Other	<table border="1"> <tr> <td rowspan="2" style="text-align: center;"><b>State or Country of Incorporation</b></td> <td>If U.S. Corporation Idaho</td> </tr> <tr> <td>OR If non-U.S. Corporation Select Country</td> </tr> </table>	<b>State or Country of Incorporation</b>	If U.S. Corporation Idaho	OR If non-U.S. Corporation Select Country
<b>State or Country of Incorporation</b>	If U.S. Corporation Idaho			
	OR If non-U.S. Corporation Select Country			
<b>Internal Address</b>				
<b>* Street Address</b>	7211 Colonial Street <small>NOTE: You must limit your entry here, and for all remaining fields within this overall section (except City, see below), to no more than 40 characters (the storage limit for the USPTO database). You may need to abbreviate some words, e.g., St. instead of Street. Failure to do so may result in an undeliverable address, due to truncation at the 40 character limit.</small>			
<b>* City</b>	Boise <small>NOTE: You must limit your entry here to no more than 22 characters.</small>			
<b>* State</b> <small>(Required for U.S. applicants)</small>	Idaho <small>NOTE: You must include as part of the "city" entry any information related to geographical regions (e.g., provinces) not found in the dropdown lists for "States" or "Countries." Enter the city and then the geographical region, separated by a comma (e.g., Toronto, Ontario). In most instances, you will then also have to select the country within which the region is found, below.</small>			
<b>* Country or U.S. Territory</b>	United States			
<b>* Zip/Postal Code</b> <small>(Required for U.S. applicants only)</small>	83709			
<b>Phone Number</b>				
<b>Fax Number</b>				
<b>Internet E-mail Address</b>	<input type="text"/>  <small>While the application may list an e-mail address for the applicant, only the e-mail address of applicant's attorney or domestic representative will be used for actual correspondence purpose, in accordance with <a href="#">Office policy</a>.</small>			

# Warning (Phone Number)

## WARNING



The following warning(s) ⚠ have been detected in the form. You can ignore these warnings by clicking "**Continue**" or correct them by clicking "**Go Back**"

⚠ A telephone number has not been entered. Although optional, a telephone number would help the examining attorney contact you if additional information is needed. Please keep in mind that information you submit to the USPTO will be available to the public.

### Important Note

To avoid unnecessary delays in processing your application, we strongly recommend you **Go Back** to enter the information referenced in the warning message above. However, because this information is not mandatory, if you so choose, you may use the button below to continue.

Go Back

Continue

# Enter Mark

## Mark Information

Before the USPTO can register your mark, exactly what the mark is must be clear. You may present your [mark](#) either as: (1) [standard characters](#), if not claiming a particular font, style, size, and/or color; or (2) [special form](#), if the mark includes a design or word(s) combined with a design, or is displayed in a particular font, style, size, and/or color. In this section, do **not** upload your specimen of use (sample of actual use, e.g., a label or advertisement. This will be required in a different part of the form, if appropriate for your filing basis.) **WARNING:** You may submit only **one** mark per application, and any application that includes multiple marks may be denied a filing date or refused registration.

When you click on one of the two circles presented below, and follow the specific instructions, the form will automatically create a separate page that displays the mark for which you are applying. Please carefully review this page prior to final submission to the USPTO, to ensure that it accurately identifies your mark. You may not be able to [change or correct your mark](#) after filing this application. While minor changes in the mark are *sometimes* permitted, any [material alteration](#) will not be permitted and will result in the USPTO issuing a refusal on that ground.

**WARNING:** AFTER [SEARCHING](#) THE USPTO DATABASE, EVEN IF YOU THINK THE RESULTS ARE "O.K.," DO NOT ASSUME THAT YOUR MARK CAN BE REGISTERED. AFTER YOU FILE AN APPLICATION, THE USPTO WILL PERFORM ITS OWN SEARCH AND OTHER REVIEW, AND MIGHT [REFUSE TO REGISTER](#) TO REGISTER YOUR MARK.

\* Click the appropriate circle to indicate the Mark type:  [Standard Characters](#)  [Special Form \(Stylized and/or Design\)](#)

Enter the mark here: (Note: The entry can be in capital letters, lower case letters, or a combination thereof. Do **not** include the ™, ℠, ®, or © symbols after the mark entry, because they are **not** part of the actual mark. If using Internet Explorer, the entry cannot exceed 2036 characters; otherwise, you must switch to another browser.)

Preview USPTO-Generated Image

NOTE: For how the USPTO determines what the display of the entered mark will be, click [here](#).

NOTE: For information about mark display in USPTO databases, click [here](#)

Check here if you need to enter an [additional statement](#), e.g., a disclaimer, translation, or claim of ownership. The full range of possible statements will then be displayed. If, upon review of all of the statements, you realize that no statement is needed, you must click on the box to "uncheck" it, and the entire Additional Statement section will be removed.

Go Back

Continue



# Add Goods & Services

## Goods and/or Services Information

### Instructions:

**Step 1:** Click on the appropriate button, *below*, to indicate whether you wish to create your listing of goods/services by (1) taking entries directly from the *Manual of Trademark Acceptable Identifications of Goods & Services (IDManual)*; or (2) entering your own free-text entry. **NOTE:** Option 1 is recommended, to ensure automatic acceptance of the listing in examination; however, if the entry requires customization through the insertion of free-form text, even Option 1 obviously will not ensure that the listing is automatically accepted.

**Step 2:** Click on the "Add Goods/Services" button.

**Step 3:** After creating the complete list of goods and/or services for this application, you will then be able in the next section of the form to designate the filing basis (or bases) appropriate for each listed item.

### NOTE:

1. If a desired term does not appear in the IDManual, you can request that identification be added, by e-mailing [TMIDSUGGEST@uspto.gov](mailto:TMIDSUGGEST@uspto.gov); however, since the item would not be added immediately, you would need to use Option 2 (free-text entry). For more information on the process for adding identifications, click [here](#).
2. Some entries include instructional language beneath the actual entry, within <> symbols. This language is only to assist in the proper selection of an entry, and will NOT be included as part of the actual identification after the checked entry is inserted into the form. *New*
3. If you cannot access the IDManual through the "Add Goods/Services" button, try switching to another browser. If after changing browsers you still cannot access the IDManual through the "Add Goods/Services" button, please contact [TEAS@uspto.gov](mailto:TEAS@uspto.gov).

**WARNING:** This form has a session time limit of 60 minutes. Your "session" began as soon as you accessed the initial Form Wizard page. If you exceed the 60-minute time limit, the form will not validate and you must begin the entire process again; you can, however, [extend the time limit](#). You should always try to have all information required to complete the form prior to starting any session.

\* Choose ONE method for adding the Goods and/or Services:  Searching IDManual  Entering Free-form text

Add Goods/Services

Remove Checked Class(es)

# Enter Free-Form Text / Use ID Manual

## Basis for Filing

Applicant requests registration of the trademark/service mark identified previously with the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §1051 *et seq.*) for the Goods and/or Services entered below.

### Instructions for assigning filing basis(es):

After selecting a class number (if known) and entering the goods/services listing for that class, you may assign a specific filing basis, or if appropriate, multiple bases. For an explanation of the possible filing basis(es), as identified by the 4 buttons beneath the listing of goods/services, click [here](#).

For complete step-by-step instructions on how correctly to assign the filing basis(es), click on the heading that corresponds to the factual scenario for this specific filing, *below*. For examples of filings corresponding to each of the heading descriptions, click on the link "Examples."

- [One class or multiple classes, with ONE filing basis for ALL listed items Examples](#)  
NOTE: This is the most common correct choice for any filing. The following are other options, but are much less likely to be appropriate:
- [One class or multiple classes, with same multiple filing bases for ALL listed items in class\(es\) Examples](#)
- [One class, with different filing basis\(es\) for different goods/services within the same class Examples](#)
- [Multiple classes, with different filing basis\(es\) for different overall classes Examples](#)

\* Choose ONE method for adding the Goods and/or Services:  Searching IDManual  Entering Free-form text

Add Class(es) of Goods/Services

Remove Checked Class(es)

Click on the above button to create the next class. For more instructions, click [here](#).

Click on this button to remove a class entirely. For more instructions, click [here](#).

Select All	International Class	* Goods and/or Services	Assigned Filing Basis(es)
<input checked="" type="checkbox"/>	041 <small>If known, select class number 001-045</small>	NOTE: Do not enter a Class Number or any other code in the field below. You must enter only the <a href="#">common commercial name</a> for the specific goods and/or services associated with the mark. Also, do not include any html or other programming code or language that may create links in the listing of goods and/or recitation of services, nor any abbreviations. For assistance in determining acceptable wording, please see <a href="#">USPTO Goods/Services Manual</a> . Gymnasium services; providing health and fitness facilities; providing instruction in exercise and fitness	

NOTE: The 4 BUTTONS below identify the choices of filing basis to be assigned to the items listed in the table, *above*. For an explanation of each basis, click [here](#). Because assignment of the correct basis to each item is critical, please read the explanations if you have *any* questions as to which basis(es) to select, before clicking the button(s), *below*, to begin the assignment of the basis(es). **Since assignment of a filing basis is not a requirement within this version of the form, you can by-pass this step by clicking on the Continue button, below, if necessary.**

### WARNING: Registration Subject to Cancellation for Fraudulent Statements

You must ensure that statements made in filings to the USPTO are accurate, as inaccuracies may result in the cancellation of a trademark registration. The lack of a bona intention to use the mark with all goods and/or services included in an application, or the lack of use on all goods and/or services for which you claim use, could jeopardize the validity of the registration and result in its cancellation.

Section 1(a)

Actually using mark in commerce now

Section 1(b)

No use of mark yet, intending to use

Section 44(d)

Foreign application exists for same goods/services

Section 44(e)

Foreign registration exists for same goods/services

# Filing Basis: Intent to Use 1(b)

## Basis for Filing

Applicant requests registration of the trademark/service mark identified previously with the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §1051 *et seq.*) for the Goods and/or Services entered below.

### Instructions for assigning filing basis(es):

After selecting a class number (if known) and entering the goods/services listing for that class, you may assign a specific filing basis, or if appropriate, multiple bases. For an explanation of the possible filing basis(es), as identified by the 4 buttons beneath the listing of goods/services, click [here](#).

For complete step-by-step instructions on how correctly to assign the filing basis(es), click on the heading that corresponds to the factual scenario for this specific filing, *below*. For examples of filings corresponding to each of the heading descriptions, click on the link "Examples."

- [One class or multiple classes, with ONE filing basis for ALL listed items](#) *Examples*  
NOTE: This is the most common correct choice for any filing. The following are other options, but are much less likely to be appropriate:
- [One class or multiple classes, with same multiple filing bases for ALL listed items in class\(es\)](#) *Examples*
- [One class, with different filing basis\(es\) for different goods/services within the same class](#) *Examples*
- [Multiple classes, with different filing basis\(es\) for different overall classes](#) *Examples*

\* Choose ONE method for adding the Goods and/or Services:  Searching IDManual  Entering Free-form text

Add Class(es) of Goods/Services

Remove Checked Class(es)

Click on the above button to create the next class. For more instructions, click [here](#).

Click on this button to remove a class entirely. For more instructions, click [here](#).

Select All	International Class	* Goods and/or Services	Assigned Filing Basis(es)
<input type="checkbox"/>	041 If known, select class number 001-045	NOTE: Do not enter a Class Number or any other code in the field below. You must enter only the <a href="#">common commercial name</a> for the specific goods and/or services associated with the mark. Also, do not include any html or other programming code or language that may create links in the listing of goods and/or recitation of services, nor any abbreviations. For assistance in determining acceptable wording, please see <a href="#">USPTO Goods/Services Manual</a> . Gymnasium services; providing health and fitness facilities; providing instruction in exercise and fitness	<a href="#">1(b)</a>

**NOTE: The 4 BUTTONS below identify the choices of filing basis to be assigned to the items listed in the table, above. For an explanation of each basis, click [here](#). Because assignment of the correct basis to each item is critical, please read the explanations if you have any questions as to which basis(es) to select, before clicking the button(s), below, to begin the assignment of the basis(es). Since assignment of a filing basis is not a requirement within this version of the form, you can by-pass this step by clicking on the Continue button, below, if necessary.**

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Section 1(a)

Actually using mark in commerce now

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No use of mark yet, intending to use

Section 44(d)

Foreign application exists for same goods/services

Section 44(e)

Foreign registration exists for same goods/services



# Complete Remaining Steps

- Enter Attorney & Correspondence Information
- Pay Fees
- Submit/Save File for Later Filing
- Receive PTO Generated Image (for Standard Characters)
- Save/File Receipt

**Thank you!**

*Questions/Comments?*

